IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 195 OF 1988.

The Commissioner of Income-tax. ... Applicant.

V/s.

M/s.Swastik Textile Mills Ltd. ... Respondent.

Ashok Kotangale for the applicant.

S.N.Inamdar for the respondent.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 27th June 2005.

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the land in question, though originally held as capital asset, was a part of its stock-in-trade for assessment year 1978-79 and on that basis allowing municipal taxes amounting to Rs.32,503/- as a business expenditure in computing the total income of the assessee?"

. Learned counsel for the parties agreed that in view of the decision of this Court in the case of **C.I.T. v. Swastick Textile Mills**, (1995) 214 ITR 740, question referred to us has to be answered in the affirmative i.e. in favour of the assessee and against the revenue.

. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**